

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 357 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT HOUSING BOARD

Versus

MAYUR J PARIKH

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Appearance:

MRS KETTY A MEHTA for Petitioner

MR JJ YAJNIK for Respondent No. 1

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CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 28/03/2000

ORAL JUDGEMENT

Mrs Ketty Mehta for the petitioner and Mr J.J.  
Yajnik for the respondent.

1 This is a petition filed by the Gujarat Housing  
Board through the Housing Commissioner challenging the

judgement and award dated December 9 1996 passed by the Labour Court, Ahmedabad, in Reference (LCA) No.4-5 of 1985 and praying for quashing and setting aside of the same.

2 Mrs Mehta has submitted that the Labour Court, Ahmedabad, was not right in partly allowing the reference and setting aside the order of termination passed by the petitioner-board terminating the services of the workman on 26.7.1984. She has also submitted that the order of reinstatement of the respondent-workman on his original post of junior clerk on regular basis with continuity of service is also bad though the same was without payment of full back wages. Mrs Mehta has also submitted that the services of the respondent-workman were sought to be terminated on the ground that the recruitment of the respondent-workman was as a daily wager and on temporary basis and hence he was not entitled to continue in service. However, the Labour Court observed in para 11 of the award that the work was that of permanent nature and that the same was not restricted for a limited period. It is also observed by the Labour Court that the petitioner-board was not able to produce the muster roll and wage record which could have been best evidence to show that the number of employees working on temporary, work-charge, or casual character. Lastly, the Labour Court was pleased to hold that the order of termination is bad in law and the workman is required to be granted the relief of reinstatement on his original post.

3 Mr Yajnik appearing for the respondent-workman has submitted that when this Special Civil Application came to be filed before this Court in the year 1987 this Honourable Court has refused to grant the interim relief and the Honourable Court was pleased to issue Rule only refusing interim relief on 17.3.1987 whereby the respondent-workman came to be reinstated on regular basis, subject to the result of this petition. The respondent-workman continued to serve for all these years and now it is too late in a day to accept the contentions of Mrs Mehta, more particularly when the Labour Court has recorded the findings against the petitioner-board.

4 In view of the aforesaid facts and circumstances of the case, this Court does not find any reason to interfere with the award of the Labour Court at this stage and to disturb the respondent-workman who has been working for all these years. Hence, the petition is dismissed. Rule is discharged with no order as to costs.

(mohd)